

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSHUA PHILLIP LOWERY,  
Plaintiff,  
v.  
BROWNNEN, *et al.*,  
Defendants.

Case No. 2 :23-cv-01566-JDP (PC)

**ORDER**

DENYING PLAINTIFF'S MOTIONS FOR  
CLARIFICATION AND FOR THE  
APPOINTMENT OF COUNSEL

ECF Nos. 26, 28, 31, & 33

Plaintiff has filed two motions for clarification seeking the name of her court-appointed attorney for an upcoming settlement conference. ECF Nos. 26 & 28. The court has no record of appointing counsel for plaintiff, and the docket reflects that a settlement conference has been set.

Plaintiff has also moved for the appointment of counsel three times. ECF Nos. 28, 31, & 33. Plaintiff does not have a constitutional right to appointed counsel in this action, *see Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court lacks the authority to require an attorney to represent plaintiff. *See Mallard v. U.S. Dist. Ct. for the S. Dist. of Iowa*, 490 U.S. 296, 298 (1989). The court can request the voluntary assistance of counsel. *See* 28 U.S.C. § 1915(e)(1) ("The court may request an attorney to represent any person unable to afford counsel"); *Rand*, 113 F.3d at 1525. But without a means to compensate counsel, the court will

1 seek volunteer counsel only in exceptional circumstances. In determining whether such  
2 circumstances exist, “the district court must evaluate both the likelihood of success on the merits  
3 [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the  
4 legal issues involved.” *Rand*, 113 F.3d at 1525 (internal quotation marks and citations omitted).

5 The appointment of counsel is not warranted. The allegations in the complaint are not  
6 exceptionally complicated, and plaintiff has not demonstrated that she is likely to succeed on the  
7 merits.

8 Accordingly, it is hereby ORDERED that:

- 9 1. Plaintiff’s motions for clarification, ECF Nos. 26 & 28, are denied.  
10 2. Plaintiff’s motions for the appointment of counsel, ECF Nos. 28, 31, & 33, are denied.

11 IT IS SO ORDERED.

12 Dated: May 8, 2024

  
13 JEREMY D. PETERSON  
14 UNITED STATES MAGISTRATE JUDGE

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